

The Danish Helsinki Committee for Human Rights

Warsaw, September 2015.

Recommendation on the relationship between prosecution and the executive.

1. Independence from the executive is of crucial importance to the functioning of a public prosecution service. In a number of OSCE countries there have been examples of the criminal justice systems being abused in a political struggle.
2. Of special concern is that in some OSCE countries, the prosecution service is still hierarchically subordinate to the executive.
3. In some countries with a hierarchical system, the prosecution service can be given instructions by the executive not only of a general nature, but also instructions in individual cases to open, to continue, to discontinue and to stop prosecution.
4. Even if safeguards are established, like demand for instructions to be in writing, to be reasoned and to be transparent, it does not sufficiently protect against abuse.
5. There has over the years been a clear general tendency in the OSCE countries towards introducing and increasing the independence of the prosecution services. This has not yet been sufficiently reflected in the OSCE Commitments.
6. The Danish Helsinki Committee therefore recommends that the participating states should take appropriate measures to secure effective independence of the public prosecution services from the executive and that instructions cannot be given in individual cases.